IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.2887 OF 2004
IN
FIRST APPEAL NO 931 OF 2004

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders.

Ms.Vidya N.Manjrekar for Shri P.M.Havnur for the Applicant.

Shri M.D.Patil for the Respondent-BMC.

CORAM : ABHAY S.OKA, J.

DATED : 30th August, 2004.

P.C.:

1. Rule. The Respondents waives service. Taken up for hearing forthwith.

2. As the First Appeal is admitted for final hearing, the suit structure cannot be allowed to be demolished. However, the Applicant is not entitled to unconditional relief as the suit has been dismissed.

3. Civil Application is disposed by the following order:

(i) Till final disposal of the First Appeal, the

suit structure shall not be demolished by the Respondent-Corporation on the basis of the notice dated 21st January 2000 and order dated 31st March 2000, subject to condition that the Applicant shall file an undertaking in this Court within a period of three weeks from today, unconditionally giving an undertaking that the Applicant will not create any third party interests in respect of the suit structure, the Applicant will not induct any third party in the suit structure and that the Applicant will not carry out any additions or alternations to the suit structure without seeking permission of this Court.

(ii) If the undertaking is not filed within the stipulated time, the interim relief granted will stand vacated automatically.

(iii) In case the Applicant commits any breach of the terms of the undertaking, the Respondent Corporation is at liberty to apply for vacating the interim relief.

(iv) No order as to costs.

Judge.